

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

John K. Goodrow,

Plaintiff,

v.

Friedman & MacFadyen, P.A. and  
Johnie R. Muncy,

Defendants.

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Civil Action No: 3:11-cv-00020-MHL  
(Consolidated)

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**DEFENDANTS' DISCOVERY PLAN**

Pursuant to Fed. R. Civ. P. 26, Defendants Friedman & MacFadyen, P.A. and Johnie R. Muncy, submit their Discovery Plan.<sup>1</sup>

1. RULE 26(f) CONFERENCE: The parties, through counsel, held a Rule 26(f) conference by telephone on August 20, 2012.

2. DISCOVERY DEADLINE: The parties shall complete discovery according to the following schedule:

- i. Goodrow – November 30, 2012
- ii. Banks – November 30, 2012
- iii. Buel – December 31, 2012
- iv. Chatter – December 31, 2012
- v. Crawley – January 31, 2013

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<sup>1</sup> Counsel for defendants and counsel for plaintiffs in these matters conferred to discuss a joint discovery plan as contemplated by Fed. R. Civ. P. 26(f) but were unable to agree to a plan. The principal disagreement concerned the advisability of consolidating these cases for any purpose other than their coordinated pre-trial management. Given the varied nature of the different plaintiffs' claims, plaintiffs' varied injury claims, the different laws that will control many of the claims, the defendants' different clients (and those clients' varying foreclosure and debt collection procedures), the likelihood of jurors confusing one case with another, and the prejudice attendant to the defendants with having the claim of one plaintiff heard by a jury considering the claims of an unrelated plaintiff, the defendants do not consent to all of these pending cases being heard in a single trial and do not consent to discovery in any one plaintiff's case operating to curtail permissible discovery in a different, unrelated case. No motion has yet been filed to consolidate the cases which further counsels against curtailing discovery in these cases until such a motion has been filed and properly briefed and argued.

- vi. Sanmateo – January 31, 2013
- vii. Ceccone – February 28, 2013
- viii. Mbundure – February 28, 2013
- ix. McBeth – March 31, 2013

Discovery for each matter does not need to be conducted in phases. Because the *Smith* and *Hicks* matters are the subject of pending motions to dismiss for want of jurisdiction and for change of venue to the District of Maryland, the Defendants propose to defer the commencement of discovery in those matters until resolution of those pending motions.

3. INITIAL DISCLOSURES: The parties will exchange initial disclosures under Rule 26(a)(1) in accordance with the following schedule.

- i. Goodrow – 14 days from pre-trial conference (PTC)
- ii. Banks – 14 days from PTC
- iii. Buel – 14 days from PTC
- iv. Chatter – 14 days from PTC
- v. Crawley – 28 days from PTC
- vi. Sanmateo – 28 days from PTC
- vii. Ceccone – 28 days from PTC
- viii. Mbundure – 28 days from PTC
- ix. McBeth – 42 days from PTC

Because the *Smith* and *Hicks* matters are the subject of pending motions to dismiss for want of jurisdiction and for change of venue to the District of Maryland, the Defendants propose to defer initial disclosures until resolution of those pending motions for those cases.

4. EXPERT DISCLOSURES: Expert discovery shall be conducted according to the following schedule:

Plaintiff Disclosures:	30 days from Initial Disclosures
Defendant Disclosures:	60 days from Initial Disclosures
Plaintiffs' Rebuttal Disclosures:	75 days from Initial Disclosures

5. PRESERVATION OF DISCOVERABLE INFORMATION: The parties understand the importance of preserving discoverable information. Both parties believe they have

taken reasonable steps to preserve all such information.

6. ELECTRONICALLY STORED INFORMATION: Electronically stored information may be produced in printed or hard copy form. However, the producing party shall maintain the electronically stored information in the format in which it exists at the time the request for discovery was made. Thereafter, any party may, at that party's expense, request the production of electronically stored information in its native format.

7. CLAIMS OF PRIVILEGE & PROTECTION OF TRIAL MATERIAL: The responding party to discovery shall provide a privilege log for all material for which a privilege is claimed. The log will set forth the bates number (if any) of the privileged document and include (1) the date of its creation; (2) its author(s); (3) its recipient(s); and (4) a brief general description of the document along with the basis for the privilege assertion. No party will be required to put on the privilege log documents that chronicle communications between the parties and their respective counsel made in relation to or in anticipation of this litigation if such documents were generated after the initiation of this action, unless they are independently relevant to the action. Inadvertent production of privileged material shall not be deemed a waiver of any privilege, and, if it is discovered that a party has produced privileged material, the receiving party shall promptly return the same.

8. SERVING AND FILING PLEADINGS: All pleadings, motions, and other papers that are filed are to be served electronically as provided by the Federal Rules of Civil Procedure and the Local Rules. In addition, the parties agree to serve by mail all discovery requests, written responses, and any other papers that are not filed with the Clerk of the Court. The serving party shall attach the pleading or paper in a "portable document format" (".pdf") or other form of electronic file. If transmissions of voluminous materials as an e-mail attachment are

impractical, then those materials shall be served by overnight delivery via a service with the ability to "track" deliveries and verify receipt.

9. PROTECTIVE ORDER: In the event a protective order is deemed necessary, the parties shall work together to agree on a form and shall comply with the requirements of Virginia Dep't of State Police v. The Washington Post, 386 F.3d 567 (4th Cir. 2004) and Ashcraft v. Conoco, 218 F.3d 282 (4th Cir. 2000).

10. MAGISTRATE JUDGE: The parties consent to a trial before a United States Magistrate Judge.

11. SETTLEMENT: The parties have engaged in unsuccessful mediation efforts.

12. DISCOVERY LIMITATIONS: Defendants do not propose any additional discovery limitations not already provided by the Federal Rules of Civil Procedure and the Local Civil Rules with the exception of the *Smith* and *Hicks* matters. Those matters are the subject of pending motions to dismiss for want of jurisdiction and for change of venue to the District of Maryland where those cases arose and where the parties all reside. Accordingly, Defendants propose to defer the commencement of discovery until resolution of those pending motions.

DATED: August 27, 2012

**Respectfully Submitted,**

**FRIEDMAN & MACFADYEN, P.A.  
JOHNIE MUNCY**

**By Counsel**

/s/

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### CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of August, 2012, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of electronic filing (NEF) to the following:

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